

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

ANDREI FENNER and JOSHUA HERMAN, individually and on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

GENERAL MOTORS LLC, a Delaware Limited Liability Company; ROBERT BOSCH GMBH, a corporation organized under the laws of Germany; and ROBERT BOSCH LLC, a Delaware Limited Liability Company,

Defendants.

CARRIE MIZELL, MATT HENDERSON, GEORGE STANLEY, MICHAEL REICHERT, GREGORY WILLIAMS, PHILLIP BURNS, KURT ROBERTS, and KEITH ASH, individually and on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

GENERAL MOTORS LLC, a Delaware Limited Liability Company; ROBERT BOSCH GMBH, a corporation organized under the laws of Germany; and ROBERT BOSCH LLC, a Delaware Limited Liability Company,

Defendants.

No. 2:17-CV-11661-GCS-APP
No. 2:17-CV-11984-GCS-APP

Hon. George Caram Steeh

Magistrate Judge Anthony P. Patti

**STIPULATION AND ORDER
CONSOLIDATING CASES FOR
ALL PURPOSES AND
PERMITTING FILING OF
CONSOLIDATED AMENDED
COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 42(a) and Local Rule 7.1, Plaintiffs Andrei Fenner and Joshua Herman (the “Fenner Plaintiffs”); Carrie Mizell, Matt Henderson, George Stanley, Michael Reichert, Gregory Williams, Phillip Burns, Kurt Roberts, and Keith Ash (the “Mizell Plaintiffs” and, together with the Fenner Plaintiffs, “Plaintiffs”); and Defendants General Motors LLC and Robert Bosch LLC (together, the “Served Defendants,” and together with Plaintiffs, the “Parties”), through their undersigned counsel, have met and conferred and hereby agree and stipulate to the following:

WHEREAS on May 25, 2017, the Fenner Plaintiffs filed a complaint captioned *Andrei Fenner, et al. v. General Motors LLC, et al.*, Case No. 2:17-CV-11661-GCS-APP (the “Fenner Action”);

WHEREAS on June 21, 2017, the Mizell Plaintiffs filed a complaint captioned *Carrie Mizell, et al. v. General Motors LLC, et al.*, Case No. 2:17-CV-11984-GCS-APP (the “Mizell Action”);

WHEREAS both cases are pending before the Honorable George C. Steeh;

WHEREAS both the Fenner Action and the Mizell Action assert claims under RICO and various state laws regarding the emissions performance of Model Years 2011-2016 Chevrolet Silverado and GMC Sierra diesel vehicles equipped with the Duramax engine;

WHEREAS the Served Defendants were served in the above-captioned

actions;

WHEREAS counsel for the Parties have conferred, and the Parties are in agreement that the Mizell Action should be consolidated with the Fenner Action for all purposes because the cases involve common questions of law and fact, and because consolidation would advance the interests of judicial economy; and

WHEREAS the Parties seek to agree upon a schedule for the filing of and response to a Consolidated Amended Complaint.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the Parties hereto, through their respective counsel of record, that, subject to the Court's approval:

1. Pursuant to Federal Rule of Civil Procedure 42(a), the above captioned actions are hereby consolidated for all purposes into one action.
2. The Fenner Action and the Mizell Action shall be referred to herein as the "Consolidated Action." The Master Docket and Master File for the Consolidated Action shall be Civil Action No. 2:17-CV-11661-GCS-APP.
3. The caption for the Consolidated Action shall be:

IN RE DURAMAX DIESEL LITIGATION

No. 2:17-CV-11661-GCS-APP

4. All orders, pleadings, motions, and other documents shall, when filed and

docketed in the Master File, be deemed filed and docketed in each individual action to the extent applicable.

5. The Plaintiffs shall file a Consolidated Amended Complaint within ten (10) days of entry of the order of consolidation;
6. The defendants named in the Consolidated Amended Complaint shall have 60 days after the Consolidated Amended Complaint has been filed to answer, move to dismiss, or otherwise respond; provided that if Robert Bosch GmbH has not been served under the Hague Convention by the date the Consolidated Amended Complaint is filed, it shall have 60 days from the date of such service to answer, move to dismiss, or otherwise respond.
7. All prior briefing schedules and response dates in the Fenner Action and the Mizell Action are vacated.
8. Neither the Plaintiffs nor the Served Defendants waive their rights to seek additional adjournments or extensions of the above schedule.
9. This stipulation is not and shall not be construed as a waiver of any of the above-named parties' jurisdictional, substantive, or procedural rights and remedies in connection with the above-captioned proceedings, all of which are hereby expressly reserved.

ORDER

Pursuant to the Parties' agreement, it is **ORDERED** that:

1. The above-captioned proceedings are consolidated for all purposes into one action;
2. All subsequent papers filed after the date of this order shall be entered in civil number 17-11661. Civil number 17-11984 is hereby closed for administrative purposes.
3. Plaintiffs shall file a Consolidated Amended Complaint within ten (10) days of entry of the order of consolidation;
4. The defendants named in the Consolidated Amended Complaint shall have 60 days after the Consolidated Amended Complaint has been filed to answer, move to dismiss, or otherwise respond; provided that if Robert Bosch GmbH has not been served under the Hague Convention by the date the Consolidated Amended Complaint is filed, it shall have 60 days from the date of such service to answer, move to dismiss, or otherwise respond; and
5. All prior briefing schedules and response dates in the Fenner Action and the Mizell Action are hereby vacated.

IT IS SO ORDERED.

s/George Caram Steeh
United States District Judge

Dated: July 25, 2017

STIPULATED AND AGREED BY:

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